

SECOND REGULAR SESSION

SENATE BILL NO. 1270

94TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR RIDGEWAY.

Read 1st time February 28, 2008, and ordered printed.

TERRY L. SPIELER, Secretary.

5352S.011

AN ACT

To repeal section 135.967, RSMo, and to enact in lieu thereof one new section relating to enhanced enterprise zones.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Section 135.967, RSMo, is repealed and one new section
2 enacted in lieu thereof, to be known as section 135.967, to read as follows:

135.967. 1. A taxpayer who establishes a new business facility may, upon
2 approval by the department, be allowed a credit, each tax year for up to ten tax
3 years, in an amount determined as set forth in this section, against the tax
4 imposed by chapter 143, RSMo, excluding withholding tax imposed by sections
5 143.191 to 143.265, RSMo. No taxpayer shall receive multiple ten-year periods
6 for subsequent expansions at the same facility.

7 2. Notwithstanding any provision of law to the contrary, any taxpayer who
8 establishes a new business facility in an enhanced enterprise zone and is awarded
9 state tax credits under this section may not also receive tax credits under sections
10 135.100 to 135.150, sections 135.200 to [135.268] **135.286**, or section 135.535,
11 **and may not simultaneously receive tax credits under sections 620.1875**
12 **to 620.1980, RSMo, at the same facility.**

13 3. No credit shall be issued pursuant to this section unless:

14 (1) The number of new business facility employees engaged or maintained
15 in employment at the new business facility for the taxable year for which the
16 credit is claimed equals or exceeds two; and

17 (2) The new business facility investment for the taxable year for which the
18 credit is claimed equals or exceeds one hundred thousand dollars.

19 4. The annual amount of credits allowed for an approved enhanced

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

20 business enterprise shall be the lesser of:

21 (1) The annual amount authorized by the department for the enhanced
22 business enterprise, which shall be limited to the projected state economic
23 benefit, as determined by the department; or

24 (2) The sum calculated based upon the following:

25 (a) A credit of four hundred dollars for each new business facility
26 employee employed within an enhanced enterprise zone;

27 (b) An additional credit of four hundred dollars for each new business
28 facility employee who is a resident of an enhanced enterprise zone;

29 (c) An additional credit of four hundred dollars for each new business
30 facility employee who is paid by the enhanced business enterprise a wage that
31 exceeds the average wage paid within the county in which the facility is located,
32 as determined by the department; and

33 (d) A credit equal to two percent of new business facility investment
34 within an enhanced enterprise zone.

35 5. Prior to January 1, 2007, in no event shall the department authorize
36 more than four million dollars annually to be issued for all enhanced business
37 enterprises. After December 31, 2006, in no event shall the department authorize
38 more than fourteen million dollars annually to be issued for all enhanced
39 business enterprises.

40 6. If a facility, which does not constitute a new business facility, is
41 expanded by the taxpayer, the expansion shall be considered eligible for the credit
42 allowed by this section if:

43 (1) The taxpayer's new business facility investment in the expansion
44 during the tax period in which the credits allowed in this section are claimed
45 exceeds one hundred thousand dollars and if the number of new business facility
46 employees engaged or maintained in employment at the expansion facility for the
47 taxable year for which credit is claimed equals or exceeds two, and the total
48 number of employees at the facility after the expansion is at least two greater
49 than the total number of employees before the expansion; and

50 (2) The taxpayer's investment in the expansion and in the original facility
51 prior to expansion shall be determined in the manner provided in subdivision (14)
52 of section 135.950.

53 7. The number of new business facility employees during any taxable year
54 shall be determined by dividing by twelve the sum of the number of individuals
55 employed on the last business day of each month of such taxable year. If the new

56 business facility is in operation for less than the entire taxable year, the number
57 of new business facility employees shall be determined by dividing the sum of the
58 number of individuals employed on the last business day of each full calendar
59 month during the portion of such taxable year during which the new business
60 facility was in operation by the number of full calendar months during such
61 period. For the purpose of computing the credit allowed by this section in the
62 case of a facility which qualifies as a new business facility under subsection 6 of
63 this section, and in the case of a new business facility which satisfies the
64 requirements of paragraph (c) of subdivision (14) of section 135.950, or
65 subdivision (22) of section 135.950, the number of new business facility employees
66 at such facility shall be reduced by the average number of individuals employed,
67 computed as provided in this subsection, at the facility during the taxable year
68 immediately preceding the taxable year in which such expansion, acquisition, or
69 replacement occurred and shall further be reduced by the number of individuals
70 employed by the taxpayer or related taxpayer that was subsequently transferred
71 to the new business facility from another Missouri facility and for which credits
72 authorized in this section are not being earned, whether such credits are earned
73 because of an expansion, acquisition, relocation, or the establishment of a new
74 facility.

75 8. In the case where a new business facility employee who is a resident
76 of an enhanced enterprise zone for less than a twelve-month period is employed
77 for less than a twelve-month period, the credits allowed by paragraph (b) of
78 subdivision (2) of subsection 4 of this section shall be determined by multiplying
79 four hundred dollars by a fraction, the numerator of which is the number of
80 calendar days during the taxpayer's tax year for which such credits are claimed,
81 in which the employee was a resident of an enhanced enterprise zone, and the
82 denominator of which is three hundred sixty-five.

83 9. For the purpose of computing the credit allowed by this section in the
84 case of a facility which qualifies as a new business facility pursuant to subsection
85 6 of this section, and in the case of a new business facility which satisfies the
86 requirements of paragraph (c) of subdivision (14) of section 135.950 or subdivision
87 (22) of section 135.950, the amount of the taxpayer's new business facility
88 investment in such facility shall be reduced by the average amount, computed as
89 provided in subdivision (14) of section 135.950 for new business facility
90 investment, of the investment of the taxpayer, or related taxpayer immediately
91 preceding such expansion or replacement or at the time of

92 acquisition. Furthermore, the amount of the taxpayer's new business facility
93 investment shall also be reduced by the amount of investment employed by the
94 taxpayer or related taxpayer which was subsequently transferred to the new
95 business facility from another Missouri facility and for which credits authorized
96 in this section are not being earned, whether such credits are earned because of
97 an expansion, acquisition, relocation, or the establishment of a new facility.

98 10. For a taxpayer with flow-through tax treatment to its members,
99 partners, or shareholders, the credit shall be allowed to members, partners, or
100 shareholders in proportion to their share of ownership on the last day of the
101 taxpayer's tax period.

102 11. Credits may not be carried forward but shall be claimed for the
103 taxable year during which commencement of commercial operations occurs at
104 such new business facility, and for each of the nine succeeding taxable years for
105 which the credit is issued.

106 12. Certificates of tax credit authorized by this section may be
107 transferred, sold, or assigned by filing a notarized endorsement thereof with the
108 department that names the transferee, the amount of tax credit transferred, and
109 the value received for the credit, as well as any other information reasonably
110 requested by the department. The sale price cannot be less than seventy-five
111 percent of the par value of such credits.

112 13. The director of revenue shall issue a refund to the taxpayer to the
113 extent that the amount of credits allowed in this section exceeds the amount of
114 the taxpayer's income tax.

115 14. Prior to the issuance of tax credits, the department shall verify
116 through the department of revenue, or any other state department, that the tax
117 credit applicant does not owe any delinquent income, sales, or use tax or interest
118 or penalties on such taxes, or any delinquent fees or assessments levied by any
119 state department and through the department of insurance that the applicant
120 does not owe any delinquent insurance taxes. Such delinquency shall not affect
121 the authorization of the application for such tax credits, except that the amount
122 of credits issued shall be reduced by the applicant's tax delinquency. If the
123 department of revenue or the department of insurance, or any other state
124 department, concludes that a taxpayer is delinquent after June fifteenth but
125 before July first of any year and the application of tax credits to such delinquency
126 causes a tax deficiency on behalf of the taxpayer to arise, then the taxpayer shall
127 be granted thirty days to satisfy the deficiency in which interest, penalties, and

128 additions to tax shall be tolled. After applying all available credits toward a tax
129 delinquency, the administering agency shall notify the appropriate department,
130 and that department shall update the amount of outstanding delinquent tax owed
131 by the applicant. If any credits remain after satisfying all insurance, income,
132 sales, and use tax delinquencies, the remaining credits shall be issued to the
133 applicant, subject to the restrictions of other provisions of law.

✓

Unofficial

Bill

Copy